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SERVICE DATE – LATE RELEASE DECEMBER 23, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 225X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN CERRO  
GORDO COUNTY, IA

Decided: December 23, 2005

By decision and notice of interim trail use or abandonment (NITU) served on June 1, 2005, the Board granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to permit Union Pacific Railroad Company (UP) to abandon a line of railroad known as the Thornton Industrial Lead, from milepost 2.0 near Flint, IA, to milepost 17.14 near Thornton, IA, a distance of 15.14 miles, in Cerro Gordo County, IA, subject to trail use, environmental, and standard employee protective conditions. Also, in response to a request by Iowa Trails Council (Iowa Trails), the Board issued a NITU to permit Iowa Trails to negotiate with UP for acquisition of the line for use as a trail under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), for a 180-day period extending until November 28, 2005.

On December 16, 2005, Iowa Trails filed a request for an extension of the NITU negotiating period for 180 days, until May 27, 2006. Iowa Trails states that the parties have not been able to finalize negotiations for the acquisition of the right-of-way. By letter filed on December 19, 2005, UP states that it concurs in the request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of the negotiating period will promote the establishment of trail use and rail banking consistent with the Trails Act.<sup>1</sup> Accordingly, the NITU negotiating period will be extended to May 27, 2006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>1</sup> See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

It is ordered:

1. The request to extend the interim trail use negotiating period is granted.
2. The negotiating period under the NITU is extended to May 27, 2006.
3. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary